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Historic Aspects of the Phelps and Gorham Treaty of July 4-8, 1788

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The commemoration of the 150th anniversary of the Phelps and Gorham treaty with the Indians presents a challenge to the imagination. The years that have passed since that July council on Buffalo Creek have seen great changes come over this beautiful country. We think first of the marvellous material changes that have taken place, for they are obvious on all sides. We might with much profit consider the institutional and cultural developments that make those events of 150 years ago appear like the fanciful episodes of some romantic tale.

But it is not the contrast or the changes that we wish to commemorate. That council on Buffalo Creek was a very real, a very significant occasion. The chain of events of which it was a part, and the setting in which it occurred, were vital aspects of the history of Western New York, and influenced developments throughout the country. Therefore, the recollection of this historic occasion merits our close attention, even though we shall have to turn over many of history's musty pages in the process.

A brief study of the documents is enough to reveal that the men who took part in the treaty at Buffalo Creek, and in the far-flung intrigues that followed it, were sons of Adam as we know them today—some crafty and some straightforward, some simple and some endowed with foresight, some mean and selfish, and some honestly concerned

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for the welfare of the people they represented. It would be gratifying to be able to assess blame and confer honors, but the historian, after close scrutiny, discovers that each of the characters in the drama possessed a mixture of the above qualities in varied proportions—as if they had been made of the same clay as ourselves.

It is therefore with a spirit of tolerance that we come to reconstruct the episode whose 150th anniversary we are celebrating. But the significance of that historic council lay in its background and especially in the influence it exerted upon the events of the next half-dozen years. Therefore, if we wish to taste its marrow, we must see it, and commemorate it, in that larger sense.

It had only been a few years before that the Colonists had asserted and finally won their independence. The peace treaty gained from England in 1783 had recognized the Great Lakes as the northwestern boundary of the States. In those negotiations, the British had sacrificed the interests of their recent allies, the Indian tribes, and had jeopardized the livelihood of an important faction in Canada, the fur traders. Indeed, the Canadians could not understand how such a boundary had ever been drawn. For many years they endeavored to keep the terms of the treaty secret from the Indians whose territories had thus been surrendered.

The States, or the Thirteen Council Fires, as the Indians called them, were for a time largely preoccupied with affairs along the coast. Only venturesome frontiersmen paddled up the rivers and crossed the mountains. But as the years passed these pioneers increased in number, until the Indians became aroused and determined to reclaim the cleared fields and make them again part of their great game preserve.

Fortunately the Congress of the Thirteen Fires desired to come to a peaceful agreement with the Indians. Several councils were called, and regional treaties were negotiated. One of these councils, at Fort Stanwix in 1784, had gathered together most of the Iroquois chiefs in order to clarify the boundaries of the League. A treaty was adopted recognizing the validity of the Indian title to all the territory within those boundaries. According to its provisions further encroachments on those lands would not be sustained in the white man's courts unless the Indians made new cessions in regular councils duly convened and conducted according to tribal custom.¹

Unfortunately, the modest patches of land in the Mohawk Valley, gained by this treaty, did not satisfy the venturesome frontiersmen or the hungry speculators. It proved to be impossible to prevent these men from pushing deep into the Indian territories, where they bargained or tricked various chieftains into making independent and sometimes conflicting land grants. It is not surprising that some of the Indian leaders came to doubt the ability of the Thirteen Fires to sustain their agreements.

Some of the Indians began to dream of a federation of all of the Indian tribes—one that would be strong enough to command the respect of the States. Many of the English in Canada encouraged the chiefs to unite and form a buffer state, comprising the vast territory south of the Great Lakes, which territory could then be preserved for the fur trade. The Confederation of the Thirteen Fires stood as a striking example of what union could do for widely scattered peoples. It was in 1785 that Joseph Brant, the Mohawk chief of Revolutionary fame, made a preliminary tour of the western tribes in an effort to enlist their support for such an Indian Confederation. The next year a peace pipe and the wampum belts of the Iroquois nations were carried westward by a delegation that visited all the tribes east of the Mississippi. The pipe was passed from chief to chief, and at each council fire where the proposal was favorably received a new wampum belt was added to the ceremonial "round robin." In December, 1786, a great council was convened near Detroit, and there the delegates of fourteen tribes agreed to stand together for mutual defense in a general Indian Confederation.² Decisive action might have been precipitated by the outbreak of hostilities, but fortunately these were delayed for a few crucial years.

Even before the Indian negotiations had got well under way, two of the Thirteen Fires had come together and reached an agreement concerning their rival claims to the western lands. These states were New York and Massachusetts, each of which had long claimed jurisdiction over the territory of up-state New York. Settlers and speculators alike were clamoring for a settlement of this dispute so that they could push westward and acquire sure titles to the rich lands visited by Sullivan's army a few years before. Finally in 1786 representatives from the two states met at Hartford and devised a compromise. Massachusetts surrendered to New York all jurisdiction over the disputed territory but gained as its reward the latter's vague title to ownership of the land.³

It is an old story how a host of land speculators rushed forward to secure title to this land, and how Oliver Phelps and Nathaniel Gorham gathered those of New England into one organization which agreed, on April 1, 1788, to pay Massachusetts \$1,000,000 for its preemption claims to all the lands of Western New York.⁴ But it was not long before the success of this negotiation proved to be the simplest part of the task of opening the Genesee to settlement.

We need not be surprised to find the tribesmen somewhat bewildered by the negotiations at Hartford. Was Massachusetts, and now Phelps and Gorham, claiming title to the lands recognized as theirs at the great council with the Thirteen Fires at Fort Stanwix? No wonder they gave ear to the advice of another group of land speculators, known as the New York Genesee Land Company. Thus, before Oliver Phelps could reach the Genesee, John Livingston, the leader of the rival company, had convened several of the chiefs at Geneva and had negotiated a 999 year lease to all the Indian lands of Western New York. In this lease Livingston agreed to a down payment of \$20,000 and an annual rental of \$200 for their support and the support of their children and of their children's children for 999 years. But Livingston's lease could have no standing in either Massachusetts or New York courts, and bold proposals for an independent state were put forward, further confusing the situation. Meanwhile, still another company was organized by a group of British speculators in Canada, known as the Niagara Genesee Land Company. Its leaders, Colonel John Butler, Samuel Street, and other Tory friends of the Indians, were actively urging the Iroquois chiefs to grant them a lease. They assured the Indians that the British would shortly assume the protection of their territories and that the Niagara Company would best be able to regulate the activities of the invading settlers.⁵

Such was the situation which awaited Oliver Phelps as he approached the Genesee in June, 150 years ago. His preemption claim was of little value as long as these older friends of the Indians could block a sale of the land titles. Speedy negotiations were desirable, lest the two other companies lead the Indians or the frontiersmen in a secessionist movement that would take the land out from under the shadowy claim purchased from Massachusetts. Phelps decided to offer a share in his grant, first to the New York speculators, and later to those on the Niagara. After joining his side, these erstwhile friends of the

Indians began to urge the chiefs to grant the desires of Phelps and his associates.

A first attempt to convene a council at Geneva failed, and Phelps paid a visit to Indian Allan on the Genesee before proceeding to Buffalo Creek where a large council was convened on July 4th. A goodly number of chiefs gathered there to hear Phelps explain the nature of his claim to their lands. It was not at all clear just what he had bought from Massachusetts since the Indians considered themselves to be the rightful owners of that land. But it was somehow made evident to the chieftains that, since they had been the allies of the defeated British, and since their lands had been surrendered in the peace treaty of 1783, the tribes could only expect to retain their lands on the sufferance of the United States.⁶

And the nature of the union of the States was likewise confusing to the Indians. Sometimes the States acted together as one body, as they had at Fort Stanwix; sometimes they acted independently, calling small council fires, as at Hartford; and now, at Buffalo Creek, still another kind of a council fire was being lit. It was very hard to know who had the real authority! Rumors had reached the frontier of a great council fire at Philadelphia, where the States were drawing up a long treaty, among themselves, known as the Federal Constitution. Nobody seemed to know just how the Constitution might affect the Indians. Perhaps it would be wise to make as good a bargain as possible before the States became powerful and decided to drive the Senecas from their homelands.

But still the Senecas hesitated. There were many points to be considered. Their old mission-friend, the Rev. Samuel Kirkland, was the Massachusetts representative at the council, charged with the duty of checking any mis-dealings with the Indians. One day the chiefs took him aside and told him about their hopes for a Confederation of all the Indian tribes. Did the Rev. Kirkland not think that such a confederation, in control of a buffer territory separating the United States from Canada, would receive the smiles of the Great Spirit? Apparently his answer was uncertain.⁷

And there was another serious question: Just where would the Senecas and their Iroquois brothers stand in the new Confederation? Its main occupation would doubtless be the fur trade. But, now that most of the fur bearing animals had fled to the west, it was from the

western Indians that the Scottish fur traders of Canada were getting most of their pelts, and the major part of the million-dollar-a-year fur trade was floating down the Ottawa River, rather than through the Niagara gateway as in the previous century. Did the Senecas wish to join a federation in which they would be but the poor relations of the western Indians?

These were soul-trying questions. And what did their Canadian friends advise? Street and Butler, bitter enemies of the States, seemed to consider it wise to make the sale. Their old comrade of the forest, Indian Allan, husband of one of their daughters, did not appear to be opposed to the cession. Little did the Indians suspect that these friends had already made their peace with Oliver Phelps, that they stood to win sure titles to large areas in return for the dubious claims they had previously acquired.⁸

So at last the Senecas agreed to sell a portion of their land, but they determined to make the Genesee River the western boundary of the ceded territory.

We need a special reserve of tolerance as we approach the part of the story that deals with the negotiation of the price to be paid for this vast estate. Those of us who have white ancestors, find that our forebears were neither very generous nor very straightforward at this point. For nearly 2,600,000 acres of rich land lying between Lake Seneca and the Genesee River, Oliver Phelps offered the niggardly sum of £2,100 in New York currency! The price paid to the Indians for Manhattan Island was extravagant compared to this!

Of course there were arguments in favor of the sale. One weighty argument was that the few thousand Senecas would still have more lands west of the Genesee River than they could possibly use. And some of the chiefs were beginning to realize that the best hopes for the future of their people lay in an early recognition of the inevitable triumph of the farmer over the hunter in Western New York and in a quick adjustment by the Senecas to the new way of life. In order to make this adjustment the Indians had not only to revive their old agricultural traditions, but they would also have to learn the arts of their white brothers. To accomplish this the Indians would require plows and other tools, schools, and many things which a generous purchaser of their lands might have offered to supply in kind.

Unfortunately, the story of the negotiations over the price is not a pleasing one. Protracted sessions were held in order to reach an agreement. When the Indians spoke of a desire for payments sufficient to help them secure farm tools, Phelps offered to build a mill at the falls of the Genesee to grind their flour and requested the addition of a mill site west of the river for that purpose. The consent of the Senecas to this additional cession, in spite of the 200,000 acres Phelps considered necessary for a mill site, is further evidence that the Indians were sincerely desirous of making adjustments to the white man's civilization. The final meeting, on July 8th, lasted throughout the night, and the sun was rising over the treetops for the morning of the 9th before the chiefs had reached an agreement. It had been decided that the payments already promised by the Genesee Company were just and fair, and that since a portion of the lease was now surrendered, Phelps should pay an equitable part of the total sums promised by the lessees. The task of figuring out the share to be paid by Phelps, and the task of writing down the terms of the agreement, were turned over to three white interpreters while the chiefs retired to their beds.⁹

The record becomes strangely indistinct at this point. It is hard to tell whether Clio, the Muse of History, became blear-eyed herself with drowsiness and failed to record all the details, or whether the Goddess of Justice took a short cat-nap. At all events, after a morning's rest, the chiefs arose and upon hearing an interpreter read the articles of agreement made their marks of assent at the bottom of the deed.¹⁰ Of the fifty-eight Iroquois chiefs and the seven chief women, who made their mark on the document, possibly none but Joseph Brant among the Indians was able to read its contents, and Brant was chiefly interested in the document as one of the Niagara speculators! However, the council closed in the genial fashion, so agreeable to most of those in attendance—with the opening of several kegs of rum.

But that was by no means the end of the episode. Now that the bars to settlement had been let down eager bands of home seekers began to rush into the Genesee Country. Before he returned to New England that fall, Oliver Phelps engaged a group of surveyors to lay out townships on a rectangular pattern over all the broad estate. A site at the outlet of Canandaigua Lake was chosen for the land office and the chief town, and an order was given for the erection there of a log-house during the winter. No one has yet found the deed granted by Phelps

to Indian Allan, but other evidence supports the belief that it was at this time that Allan received his title to the famous One-Hundred-Acre Tract, later the scene of Rochester's birth. Thus, along with others, the first white resident of Rochester received his reward for services at Buffalo Creek, and undertook the duty of erecting the saw and grist mills that were expected to encourage the advance of agriculture among Indians and settlers alike. The following summer saw the settlement of the Phelps and Gorham area begin in earnest.

It was likewise in the summer of 1789 that the misunderstanding over the terms of the lease came to light. When, in August of that year, Oliver Phelps appeared in Canandaigua to make his second and final payment on the purchase price, the Indians were bitterly disappointed by the sum he held out in his hand. He had brought the balance, not of \$10,000 as they expected, but of \$5,000. There were hardly enough silver pieces in the pouch to provide one for each of the Indian braves. When they realized that they had sold the vast lands of the Genesee Country for "the price of a few hogshead of tobacco," as Red Jacket later described the payment, they raised their voices in protest. Only the chiefs of the four allied tribes, which were not directly concerned, could be persuaded to assent to a paper releasing the company from any further claim "other than the annual \$500 rental to be paid on said lands forever." Samuel Street, one of the Niagara friends of the Indians, was present to endorse this second agreement, but no Seneca signed it. Apparently they finally accepted the payment, but a bitter resentment rankled in their breasts.¹¹

The details of the affair are disappointing to one who would look back to the opening of this country with romantic eyes. Yet it is hard to think that the Reverend Kirkland would have tolerated the insertion of a smaller figure in the agreement than that read out to the assembled Indians. And it is equally hard to think, as some historians have concluded, that Red Jacket, Cornplanter and the other chiefs deliberately doubled the sum claimed in order to have a popular grievance to agitate before the tribesmen.

The misunderstanding at this point may be clarified by a study of the documents. The figure actually included in the written agreement was £2,100 in *New York currency*. One may well ask whether the interpreters bothered to explain to the chiefs at Buffalo Creek that in New York currency the pound was valued at only \$2.50, rather than at

the sterling exchange rate of \$4.49 maintained in Canada. Most of the Seneca trade at that time was with Canada, and it is reasonable to suppose that the Indians thought of the price offered in terms of the Canadian market rather than in those of the depreciated currency of New York.

Thus, the difference between the two currencies would appear to explain the misunderstanding as to the original price. But there was another detail in the agreement which was a source of hard feelings. All historians referring to this land cession, mention the "\$500 annual rental which was to be paid on the land forever." All of the Indians thought that this was clearly mentioned in the deed of cession, and two years later, when the Federal authorities investigated, all the witnesses recalled this as a part of the agreement. But no mention of it was made in the deed of cession. Instead this rental was provided for in a separate bond, privately endorsed by Oliver Phelps, in order not to cloud the company's title to the lands of the Genesee Country. The bond¹² is safe in the Ontario County Historical Society in Canandaigua, and from endorsement on the back of the bond it is evident that annual payments were made to the Indians from 1791 until 1805. Records in the Ontario County Court House reveal that Oliver Phelps in 1796 mortgaged several parcels of land near Canandaigua to Israel Chapin and his successors as Superintendent of Indian Affairs, which mortgage was to serve as security for the regular payment of the rental due the Indians. In 1806 a part of this mortgage was released in return for \$1000 paid to Chapin's successor.¹³ Beyond that date the record becomes indistinct. However a memorial¹⁴ complaining against the non-payment of this rental in 1837 and thereafter was sent to Congress by several Seneca chiefs in 1845. This suggests that regular payments may have been made prior to that date, but the absence of any record of a reply to this memorial forces one to the conclusion that the old claim, after a short half century, had finally to be forgotten as a bad debt.

The grievance over the treaty was ultimately to become an idle point of academic speculation, but we must not overlook its far-reaching repercussions at that critical period on the Indian frontier. Divergent influences and contrasting personalities were to play dramatic roles during the six years following the negotiations of 1788 before a decision was reached on the frontier. The interests of the fur traders vied with those of the settlers; the welfare of the Federal Union, that of the

Indian Confederation, as well as that of the loyalist provinces of Upper Canada, each seemed unalterably opposed to the others; meanwhile the balance of power in Europe and the traditions of the mercantilist system exerted their influence from a distance. In this complex array of forces the Phelps and Gorham purchase and the grievance it had occasioned the Senecas were minor, almost insignificant factors but nevertheless factors that tipped the scales in favor of the Americans at two critical points.

The struggle for dominance in the Old Northwest came rapidly to a head in the last decade of the 18th Century. The successful organization of the Federal Union through the adoption of the Constitution, and the election of President Washington gave the States an initial advantage. None of the contending forces could foresee the persistent growth of the American people, and indeed many of them anticipated—in some cases impatiently—the speedy dissolution of the Union. But, while the States enjoyed the central and responsible leadership of President Washington after 1788, Governor John G. Simcoe did not arrive to organize the province of Upper Canada until 1791, and even then he remained dependent upon the fluctuating decisions of leaders some three months distant by post. Meanwhile the Indians were struggling to devise a united front behind which all of their tribe could stand, but the rivalries between several of the chiefs and the varied loyalties that drew the different tribes to the Canadians on the one hand, or to the States on the other, were weakening the ties of the general Indian Confederation that had been solemnized near Detroit late in 1786.¹⁵

With the organization of the federal government the affairs of the Indian frontier had been placed under the supervision of Secretary of War Knox. Friction between venturesome settlers, greedy land speculators, and both friendly and hostile Indians was becoming so acute that a forthright policy seemed necessary.¹⁶ A few treaties had been signed with separate tribes, but some of the Indians northwest of the Ohio had refused to negotiate. General St. Clair was sent forth with an army to effect their pacification, but it was deemed expedient at the same time to make sure of the loyalty of the Five Nations of the Iroquois.

Accordingly Timothy Pickering was sent into the Genesee Country to learn the truth about the grievances of the Senecas. At Tioga Point in November, 1790, Red Jacket, Cornplanter, and other chiefs were

given a courteous hearing. Pledges of friendship were exchanged at the close of this parley and again at Newton during the following year. The chiefs were invited to pay a visit to President Washington at Philadelphia, the seat of the new government of the Thirteen Fires, and a small delegation of friendly chiefs did make the journey in December of 1791. Unfortunately, news of the defeat of St. Clair in Ohio arrived during the visit, almost disrupting the parley. It became clear that unless the grievances of the Senecas could be appeased and their friendship won over by positive benefits, the hope of retaining even their neutrality would be lost.¹⁷

The services of a trusted friend of the Indians, the Reverend Samuel Kirkland, were engaged at this particular point. His advice had previously been received both through letters and in council, and now he was commissioned to visit the Indian country and extend an official invitation welcoming a larger delegation to Philadelphia. It proved to be a difficult mission. The advocates of an Indian buffer state seemed now to be in the majority among the Indians, and the younger braves were eager to join the war parties of the western tribes. Nevertheless, in face of skillful maneuvers on the part of Joseph Brant and his friends at Buffalo Creek, Kirkland finally convened a council at Geneseo during the early winter months of 1792. After promising the aid of the Thirteen Fires in helping the Indians to make their adjustments to the white man's civilization, a large delegation of chiefs was enrolled for the trip to Philadelphia. In course of time they were duly received by President Washington, and a friendly pact was negotiated. As a result Congress passed a provision for an annual expenditure of \$1500 to purchase for the Five Nations "clothing, domestic animals, and implements of husbandry, and for encouraging useful artificers to reside in their villages."¹⁸

It was a timely settlement for it won over to the peace party, not only such former friends as Cornplanter and Red Jacket, but likewise the leaders of a middle faction, notably Farmer's Brother, who had previously been strongly suspicious of the American intentions. Indeed Farmer's Brother was himself persuaded by Washington to lead a delegation of Iroquois chiefs into Ohio in an attempt to mediate between the hostile Indians and the States. It was hoped that the Five Nations might persuade the western tribes to send delegates to Philadelphia, or to choose another site where a treaty could be negotiated that would

recognize the land titles north of the Ohio and bring peace to the frontier. The alternate necessity of dispatching an army under General Wayne promised to be both expensive and unpopular. Washington and his advisers welcomed the agency of Farmer's Brother in calling a peace parley which, even if unsuccessful, would at least manifest the peaceful inclinations of the States.

But the situation was far more complex than this brief summary of the American program would suggest. Plans for the development of the newly created province of Upper Canada (present Ontario) were passing back and forth by slow couriers between Governor Simcoe and his associates, and none of these plans contemplated a cordial peace between the Indians and the States. Indeed some of the correspondents, foreseeing an early renewal of hostilities between the States and Great Britain, advised that "The Indian War must not be allowed to subside; a peace must if possible be prevented."¹⁹ But John Jay was making headway with his negotiations in England, as responsible statesmen there began to see the trade and other benefits to be derived from a policy of conciliation. Indeed, after their first scare over the impending loss of the posts and their fur trade worth £30,000 a year, the fur merchants of Montreal began to contemplate with equanimity a gradual withdrawal from the great lake posts to the far northwest, already the center of a fur trade valued at £150,000. They began to urge a peaceful withdrawal as preferable to the inevitable losses from a protracted and bloody conflict.²⁰

Governor Simcoe on the other hand could see no safe future for Upper Canada without the establishment of an Indian barrier state as a protection against the restless Americans. The fur trade was to provide a stable economic basis for his province. To this end he sought the elimination of the Montreal merchants from the trade of the lower lakes and the exclusion of traders and settlers advancing from the American side.²¹ If the Indian territories could be saved for them by his agency, not only would their loyalty be assured, but their livelihood would be so joined to that of his lake posts and the new settlement at York (Toronto) that the two would grow in harmonious security.

An Indian barrier state thus became the major objective of Governor Simcoe's early administration and gained the approval of his superiors in the English cabinet. The advance of the Americans into the Genesee Country was early recognized as one of the major threats to this

policy. Simcoe and his advisers watched with suspense the efforts of Washington to rectify the grievances of the Senecas, and the chiefs were eagerly questioned after each visit to Philadelphia. It was felt that complete safety could only be achieved by extending the barrier state to include a continuous strip of territory south of the lakes from Vermont through to the Mississippi. The failure in 1792 of the speculators who controlled a large area of land along Lake Ontario and the St. Lawrence, northeast of Oswegatchie [Oswego], was hailed as an opportunity for English capital to acquire title to this strategic area and thus make possible the gradual introduction of British troops.²² The possibility of drawing the disgruntled Vermonters into the Canadian orbit was eagerly urged; and the Governor at another time speculated on the possibility that the people of the city of New York would welcome the alienation of Western New York in order to forestall the claims of Albany to the state capital!²³

Indeed Governor Simcoe became so convinced of the justice and strength of his case that, in June of 1792, he drew up a memorandum to guide the negotiations over the Indian boundary line.²⁴ According to this memorandum the Canadians would generously accede to the retention of the Genesee territory by the States (since it had already been acquired in large part by the Pulteney interests of England) on condition that no trading posts would be established there, but in return a large area was to be conceded to the Canadians south of Detroit. These were to be the only areas of white settlement within the vast confines of the Indian buffer state. It was anticipated in a later communication that by a careful handling of the situation the Indians could be induced to ask a British guarantee of their new line which would then become the real boundary between the States and Canada.²⁵

Unfortunately for this program the advance of Jay's negotiations in England prompted Simcoe's superiors to caution him to preserve all appearances of neutrality during the councils the Americans were endeavoring to open with the western Indians.²⁶ In fact the mission of Farmer's Brother was proving to be more successful than had been expected. He had been so fully convinced of the honorable character of President Washington that he was able to urge the western tribes to consent to call a peace council at lower Sandusky for the summer of 1793. It was a notable triumph for Farmer's Brother, for he had at the start been affronted with charges of dealing with the enemy independ-

ently. But, in the end, the ties of the great Indian Confederation were cemented, and a virtual armistice was declared. Washington was invited to send commissioners empowered to negotiate an Indian boundary with the chiefs of all the federated Indians in the presence of representatives of their "father" the King of England.²⁷

The calling of a council resulted from a significant increase in the sentiment for a peaceful settlement both among the Indians and among their northern advisers. Joseph Brant, the Mohawk Chief, who was a close associate of the Canadian Loyalists, had finally made the visit to Washington which Kirkland and other Americans had long been urging upon him. He had returned just in time to follow Farmer's Brother to the West where he gave his approval to the plan to meet for negotiations the next spring. The Canadians saw the council as an opportunity to acquire peaceful recognition for the Indian barrier state. They took great comfort from the fact that the Indians had requested that the council be conducted in the presence of delegates of the King, and Governor Simcoe immediately began to lay plans to act as mediator.²⁸

There was much speculation as to the sincerity of the American offer to negotiate. The numerous attempts made at the time should have quieted suspicion, and the documents today seem to indicate a clear desire for a peaceful settlement, if it could be attained without the surrender of earlier land cessions. But only at one time was the possibility considered that an Indian border state should be set up as independent of the United States, and no action came of that discussion.²⁹ The American policy throughout had been to negotiate with whatever Indians could be persuaded to attend the parleys, and the fact that this policy tended to disrupt the Confederation gave great offense to the advocates of an Indian state. Thus the Federal authorities did not fully accept all the conditions laid down by the Indians as the basis for negotiation, but they did eagerly and sincerely seek the opportunity to meet the Indians in a peaceful council.

As the preparations for the great council on the Sandusky progressed, Simcoe became alarmed lest a boundary should be agreed upon without the collaboration of a representative of the King. A hasty dispatch of provisions and clothing was sent ahead to the newly established post at the foot of the rapids of the Miami. The establishment of this post was itself calculated to stiffen the attitude of the Indians. It was only regretted that the fine dress given to Farmer's Brother by

Washington would be a cause for jealousy on the part of the chiefs who were to receive less elegant garbs from the Canadians.³⁰

When after many delays the delegates began to gather for the great council, the value of the friendship of the Six Nations became clearly apparent. Not only had many of the western tribe come prepared for war, rather than for a peace conference, but for a time they showed little inclination even to admit the chiefs of the Senecas and other peaceful tribes to their councils. It had been determined that a preliminary conference among the Indians was necessary in order to agree upon a program for negotiations. But it was only with considerable difficulty that Chief Brant rallied a few friends of conciliation. The advice of the Canadian agents present at this preliminary conference encouraged the more warlike chiefs to demand a previous recognition by the United States commissioners of the Ohio River as the southern boundary for the Indian territory. This the commissioners could not do, and the attempt to convene the council was thus frustrated at the last moment when the two parties had approached within a few miles of each other.³¹

The full story of the Indian negotiations of 1793 scarcely belongs to the history of the Phelps and Gorham's treaty. But it is highly significant that, even after the later negotiations had been broken off, the hostile Indians were not able to pledge all the tribes to an aggressive war policy. Several of the tribes again requested the Six Nations to attempt to negotiate for a compromise boundary. Thus, as a result of rectifying the grievances of the Senecas, the federal authorities had been able by protracted negotiations to win the confidence of the entire Six Nations, including the influential Brant. Separate negotiations were continued for another two years, thus holding their attention to the New York frontier, while General Wayne successfully humbled the western Indians. And when, following the Battle of Fallen Timbers, a council fire was lit at Canandaigua late in 1794 in order to re-define the boundaries of the Six Nations, the Canadian agents were refused admittance.³² Their advice, that the Indians refuse all separate treaties and reassemble in arms in the spring ready to demand a general peace from Wayne, was rejected, and a treaty was signed with the Americans finally defining their boundaries. The Six Nations were to receive \$10,000 in goods as payment for their concession of land at disputed points, notably Presque Isle, and the States agreed to add \$3000 to the \$1500 payment already promised to these tribes annually forever.³³

It was symbolical that the payments were to be in "clothing, domestic animals, implements of husbandry, and other utensils, suited to their circumstances." The implements of the fur trade and the hunt were notably absent from this list. The Indians of Western New York thus abandoned their ties with the Indian Confederation in exchange for a peaceful if modest place in the American agricultural community.

But the Phelps and Gorham purchase had placed yet another obstacle in the path of Simcoe's plans for an Indian border state. The steady program of settlement was increasing the flow of trade between the Genesee Country and Albany and Philadelphia. The fur post at Oswego was unable to check the passage of American boats bound for Sodus and Irondequoit bays. Governor Simcoe could not realize that this trade was only a foretaste of the American commerce that would shortly develop. He accordingly sent an officer to order Williamson to remove his settlement from Sodus Bay.³⁴ It is interesting that it should have been a late officer of the British army, representing a powerful group of British investors, who stood forth at this time in the vanguard of the American frontier movement to warn Simcoe and other old school British imperialists of the agricultural settlement that was in prospect for the American West.

But the settlement of the Genesee Country is another and much longer story. It is sufficient to note here that the peaceful opening of this region to settlement was accomplished without the destruction or expulsion of the Indian owners, as was so frequently the case elsewhere. And, although hostilities did finally break out between the States and Canada, the War of 1812 neither grew out of nor vitally involved the Genesee Country. Thus the Phelps and Gorham treaty which opened this area to settlement can be viewed with much satisfaction. The Senecas still continue to dwell in our midst. We are proud today to have descendants of these early "lords of the forest" as respected leaders and useful citizens in our community. We join in the pleasure of observing the many traditions and customs that have been preserved from those early days. And we are all partakers of the more abundant civilization that has grown up in the territory still known as the Genesee Country.

Documents

No. I. Text of the Phelps and Gorham Treaty

American State Papers, *Indian Affairs*, I: 210.

To all People to whom these presents shall come, greeting: Know ye, that we, the sachems, chiefs, and warriors, of the Five Nations of Indians, for, and in consideration of, the sum of two thousand one hundred pounds, lawful money of the State of New York, paid, and received by us, to our full satisfaction, of Oliver Phelps, of Granville, in the county of Hampshire, and Commonwealth of Massachusetts, Esquire, and Nathaniel Gorham, of Charlestown, in the county of Middlesex, in the Commonwealth aforesaid, and of which we do hereby release and discharge them, the said Oliver and Nathaniel; and particularly, in consideration of the covenant and engagement made and executed by the said Oliver Phelps, in behalf of the said Nathaniel and himself, by deed of even date with these presents, have given, granted, ceded, bargained, sold, aliened, conveyed, and confirmed, and by these presents do hereby give, grant, cede, bargain, sell, alien, convey, and confirm, unto them, the said Oliver Phelps and Nathaniel Gorham, and to their heirs and assigns, forever, all that territory or country of land lying within the State of New York, contained within, and being parcel of, the lands and territory, the right of pre-emption of the soil whereof, from the native Indians, was ceded by the State of New York aforesaid to the Commonwealth aforesaid, by deed of cession, executed at Hartford, by commissioners for that purpose, on the sixteenth day of September, in the year of our Lord one thousand seven hundred and eighty-six, within the following limits and bounds, that is to say: Beginning in the north boundary line of the State of Pennsylvania, in the parallel of forty-two degrees north latitude, at a point distant eighty-two miles west from the northeast corner of Pennsylvania, on Delaware river, as the said boundary line hath been run and marked by the commissioners appointed by the States of New York and Pennsylvania, respectively; and from said point or place of beginning, running west upon said line to a meridian which will pass through that corner or point of land made by the confluence of the Shanahasgwaikoreehi (so called) with the waters of the Genesee river; thence, running north along the said meridian to the corner or

point last mentioned; thence northwardly along the waters of the said Genesee river, to a point two miles north of Shanawageras village, so called; thence, running in a direction due west, twelve miles; thence, running a direction northwardly, so as to be twelve miles distant from the most westward bends of said Genesee river, to the shore of Ontario Lake; thence, eastwardly along the shores of said lake, to a meridian which will pass through the first point or place of beginning abovementioned; thence, south along such meridian to the first point or place of beginning, aforesaid; together with all and singular the woods, houses, streams, rivers, ponds, lakes, upon, within, and in any wise appertaining to, said territory: to have and to hold the above granted and bargained premises, together with all the appurtenances and privileges thereunto belonging, or in anywise appertaining, to them the said Oliver Phelps and Nathaniel Gorham, and to their heirs and assigns forever. And we, the underwritten sachems, chiefs, and warriors, do hereby covenant and engage, to and with the said Oliver Phelps, Nathaniel Gorham, and their heirs, executors, and administrators, that we will warrant and defend the above granted and bargained premises to them, said Oliver, Nathaniel, and their heirs and assigns, against all claims whatsoever.

In witness whereof we have hereunto set our hands and seals,
this eighth day of July, in the year of our Lord one
thousand seven hundred and eighty-eight:

[The special marks of 3 Mohawks, 3 Oneidas, 8 Onondagoes, 10 Cayogas, 7 Female Governesses, or Chief Women, 12 Cayogas, and 23 Senecas follow at this point, each accompanied by the individual's Indian name written down by the interpreter.]



No. II. Bond of Oliver Phelps

MS. in the Ontario County Historical Society, Canandaigua, New York.

To all People to whom These Presents shall come, Greeting: Know ye that I Oliver Phelps of Granville, in the County of Hampshire and Commonwealth of Massachusetts Esquire, in Consideration that the Sachems, chiefs and Warriors, of the Five Nations of Indians, have by deed of even date with these presents, added granted bargained sold and conveyed To the Honorable Nathanael Gorham & myself a certain

tract or parcel of Territory included within the Massachusetts right of pre-emption so called, & Lying land being within the State of New York, the particular Lines and Boundaries whereof may be seen in said deed, reference thereunto being had, have in behalf of the Honorable Nathanael Gorham, and myself, and of our heirs, executors and administrators, covenanted promised and agreed, and Do hereby, covenant promise & agree, to and with the aforementioned Sachems chiefs, and warriors of the five Nations, their heirs, successors, & representatives, in the same line or office to pay to them or to their agent superintendant or Attorney, the sum of two hundred pounds lawful money of the State of New York, the one half whereof to be in cattle at a reasonable appraisement, the other half in silver and gold coined, said payment to be made on the fourth day of July which shall be in the year of our Lord one thousand seven hundred and ninety, and to pay them yearly and every year the same sum of two hundred pounds the one half in cattle, the other half in gold and silver, on each and every fourth day of July, annually forever thereafter to ensure to the use benefit and behalf of the said five Nations. Furthermore I do hereby covenant, promise and engage, to and with the said Sachems chiefs and Warriors of the said Five Nations that the people of the said Nations may and shall continue to have and enjoy the right, benefit and advantage of hunting and fishing upon the lands and territory so Consigned & sold as above, mentioned so long as the same lands shall continue unimproved and uncultivated—To the performance whereof I do hereby bind myself my heirs executors and administrators firmly by these presents— In witness whereof I have hereunto set my hand and seal this ninth day of July in the year of our Lord One thousand seven hundred and eighty eight—

Oliver Phelps

Signed Sealed and
Delivered in Presence of

John Wutter
Saml Kirkland
Jos. Brant

The above annual payments
are agreed to be paid at the
North end of the Canadaragwen Lake

No. III. Seneca Memorial to Congress

Copied into a small Note Book by Howard L. Osgood, before 1909, now in the University of Rochester Library

To the Congress of the United States of America, the Memorial of the Undersigned Chiefs of the Seneca Nation, assembled in Public Council, on the Cattaraugus Reservation, on the 3d day of December, 1845, respectfully represent as follows:—

* * * * *

In the year 1789, the Nation at Canandaigua, made a treaty with Oliver Phelps, or Phelps and Gorham, sold a large tract of land. By the treaty an annuity was made payable to the Nation. It was, as we are informed, secured by a capital of \$7143, but how invested we know not. The annuity was paid to the Nation by the Agent for the time being. It was not paid to the Nation in 1837, nor has it been paid for a long time since. The principal has disappeared. We cannot find it, and we have reason to believe, and do believe that it came to the hands of James Stryker as Agent and was converted by him to his own use. At any rate, it has never been received by the Nation * * * * * James Stryker is utterly insolvent. He owed the United States, as we are informed, and cannot pay. Mr. Ingersoll, who was Agent before him, and who may have received the principal of the Phelps annuity, is also insolvent, and died many years ago. But we believe that this principal came to the hands of Stryker, because, as we are informed and believe, the said Stryker, in July, 1837, executed to Henry P. Wilcox, a white man, as Trustee for the Seneca Nation, but without the consent, or approbation, or knowledge of said Nation, his bond and a mortgage conditioned for the payment of \$7143—the exact sum required to yield at seven per cent, the amount of the annuity—together with annual interest at seven per cent. The mortgage was utterly worthless; neither it nor the bond, was ever accepted by the Nation.

No. IV. John Butler's Genesee Speculations

Colonial Office Records, "Canada", Q 46 pt. 2 Photostat copy of letter presented to Rochester Public Library by Dept. of Public Archives of Canada.

[John Butler wrote to Sir John Johnson in 1790 answering charges circulated in Canada that he had persuaded the Indians to sell to Oliver Phelps]

I then [1786] advised them [the Seneca Indians] not to allow any surveys to be made, nor any person to settle any part or their Country, but to acquaint their Governor of the advantage that had been taken, which I believe they did, and received a letter and advertisement from the Governor advising them not to let the Lessees survey or settle, but that Every justice should be done them— Those papers I also sent you at the time. Mr. Livingston had in this Lease included the Lands ceded to the Massachusetts State, who had agreed with Messrs Phillips & Gorham for the same. On Mr. Phillips his arrival at Canadasaga he found the Indians disputed the sale— After which with some more Gentlemen he came to Niagara— I waited on Lieut. Col. Hunter & told him their business— After a Consultation between him and I we were of opinion, by the Indians selling part of their Country to Messrs Phillips and Gorham, it might be the means of getting the Lease Invalidated. We accordingly told them if their Intentions were fair, they ought to call a Council at Buffalo Creek, and when the Indian Council fire was kindled in the presence of the whole of the Six Nation Indians, to make their proposals, & if agreed to, would be looked upon as binding from the Indians, but, that any transactions at any of their present meetings with a few young men would never be esteemed fair or binding nor would they ever allow a Settlement to take place in their Country by any such clandestine purchase— This being told Mr. Phelps he called a Council at their fire— The Chiefs previous to the Council came to Col Hunter and myself for our advice and desired we would attend their Intended Council. Colonel Hunter declined, but said I should attend. I then asked that two or three of the officers of the Garrison should accompany me and be present at the meeting to represent him. He agreed to this and then ordered Lieuts. Douglas & Vassall of the 65th Regt. to accompany me, who were present during the whole treaty, at which time the lease taken by Livingston was made void and a new

one taken for that part of the Indian Country that lay within the State of New York, and that on condition they should obtain the Preemption right from that State, otherways to be void—

Mr. Phillips got a Deed for all the Lands East of the Genesee River as far as claimed by the Massachusetts State, and that on West of said River was released to the Six Nation Indians free of all claims or Pre-tentions whatever— After the Deeds were fully explained to the whole of the Six Nations by Captain Brant several times and the Consideration Money agreed upon, they signed the Deeds, in presence of four Officers, and twenty or thirty other persons, and appeared to be fully satisfied except that they had forgot to reserve a Tract of Land left to *me* by *Serawahana* a Senechea Chief who died during the time I was in England, but on its being mentioned to Mr. Phelps, he agreed to give me Twenty thousand Acres in lieu of it, and if that was not sufficient, I might have another share, paying proportion of the first cost, I then told him I wanted no more, than would accommodate some friends I had in the States of Connecticut and desired him to give them Deeds for Twenty thousand Acres, which he promised to do, and has since granted them part, with his obligation for the remainder. At that time, He, the said Mr. Phelps then made an offer to a number of British Subjects then there, of becoming Proprietors, paying proportion of the first Cost, which was excepted of by Mr. Street and sundry other persons but nothing was agreed upon by me, or any other Subject untill Lieut. Colonel Hunter's opinion was asked, who said [he] could see no Impropriety in it, but added, that the sooner we got rid of it the better. The whole of the above was done after Mr. Phelps had obtained his Deeds—



No. V. Memorandum by J. G. Simcoe and Alexander McKee

The Simcoe Papers, I: 171, 172.

Suppose a Boundary should be settled upon The following Terms.

1st. The Indian Territory to form a Line separating the British Territory and that of the United States.

2d. The Posts of Niagara, Oswego, & Detroit to be demolished & not held by either & included in the Indian Territory.

3d. Michillimackinac to be evacuated.

4th. The Genesee Territory, but no Post to be continued to the United States, &c. as a *proper Ballance*, Great Britain to Possess the following Territory:

5thly. From the Rapids to the Miami River, or From the River St. Clair on the West & two Leagues deep to the South—this seems to have been the Original allotment of Congress, therefore more reasonable to presume that they would admit it.

By these proposals being adopted, The Settlers at Detroit would be amenable to the British Jurisdiction, otherwise they would become Lawless Vagabonds, and it is obvious injurious to the System of Peace so necessary to the States, Indians and British.

The Settlements extend to the Miami Rapids.

This Arrangement it is probable would perpetuate Peace between the different Nations.

J. G. Simcoe

A. McKee.

To His Excellency George Hammond, &c., &c., &c.



Extract from Colonel Simcoe's Letter to Mr. Hammond

Dated June 21st

"His Majesty's Ministers do not seem to have made any distinction between Detroit and other Posts; there is an essential one, it is a large Settlement & I should hope, would remain to us as an Equivalent for the Genesee Country.

"It would be very mischievous to allow Settlements of the extent of Detroit to be Neutral; nor would it be abandoned by its present possessors; It would therefore be the interest of both Countries that it should remain under a Jurisdiction that might be amenable for the peaceful demeanor of the Inhabitants & Answerable under the Strictest limitations not to extend its Territory.

J. G. S.

Notes

1. F. B. Hough, ed., *Proceedings of the Commissioners of Indian Affairs in the State of New York* (Albany, 1891), I: 64-65 note.
2. American State Papers, *Indian Affairs* (Washington, 1832), I: 8-9.
3. L. R. Doty, *History of the Genesee Country* (Chicago, 1925), I: 347-349.
4. *Ibid.*, I: 355, 363-364.
5. Hough, *op. cit.*, I: 120-125; see also Document No. IV.
6. Hough, *op. cit.*, I: 158-172; Orsamus Turner, *History of the Pioneer Settlement of the Phelps and Gorham's Purchase* (Rochester, 1851), 137-140.
7. S. K. Lothrop, *Life of Samuel Kirkland* (Boston, 1847), 288-289.
8. See Document No. IV.
9. *Indian Affairs*, I: 214; Turner, *op. cit.*, 476-477.
10. See Document No. I.
11. *Indian Affairs*, I: 206-215.
12. See Document No. II.
13. Ontario County, "Mortgages" Liber II: 244-245; Ontario County, "Miscellaneous Records" Liber B, p. 184; Osgood MS. Collection II: 23.
14. See Document No. III.
15. Ontario Historical Society, *Simcoe Papers* (Toronto), I: 219-222.
16. *Indian Affairs*, I: 83-92, 121-122.
17. *Ibid.*, I: 165-168, 170, 212-214.
18. *Ibid.*, I: 226-229, 241-243; Lothrop, *Life of Kirkland*, 308-310, 315-327; J. D. Ibbotson, "Samuel Kirkland, the Treaty of 1792, and the Indian Barrier State," *New York History* (1938), XIX: 374-391.
19. *Simcoe Papers*, I: 101.
20. *Ibid.*, I: 56-57, 133-137.
21. *Ibid.*, I: 140-141.
22. *Ibid.*, I: 155.
23. *Ibid.*, I: 160.
24. See Document No. V.
25. *Simcoe Papers*, I: 323.
26. *Ibid.*, I: 177.
27. *Ibid.*, I: 219-229, 256-260; *Indian Affairs*, I: 323-324.
28. *Simcoe Papers*, I: 262-265, 266-269.
29. Jared Sparks, *The Writings of George Washington* (Boston, 1838), X: 318; Justin Winsor, *The Westward Movement* (Boston, 1897), 447-451.
30. *Simcoe Papers*, I: 317.
31. *Ibid.*, I: 377-380, 401-402; II: 5-17.
32. *Ibid.*, V: 121, 123; Turner, *op. cit.*, 485-487.
33. *Indian Affairs*, I: 545.
34. *Simcoe Papers*, II: 278, 281, 297, 300, 363-364.

